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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 GEORGE T. HICKS,

10 Petitioner,

11 v.

12 PATRICK GLEBE,

13 Respondent.  
14

CASE NO. C08-5672 FDB

ORDER ADOPTING REPORT  
AND RECOMMENDATION


15 The procedural history of this case is outlined by the Magistrate Judge in his Report and  
16 Recommendation. Respondent answered and responded seeking dismissal once in response to  
17 the first Petition and again in response to the Amended Petition. The Magistrate Judge quoted  
18 language from Petitioner's "Motion To Withdrawal of Amended Brief in Support of Habeas  
19 Corpus Petition § 2254" that the Court viewed as an attempt to voluntarily dismiss the petition:  
20 "[t]he Petitioner has recently received the formal response of the Attorney General concerning  
21 the Amended Supplemental Brief and hereby concedes to the Statute cited therein to the  
22 withdrawal of this petitioner's Habeas Corpus Petition and Brief." (Dkt. # 26) Petitioner now,  
23 however, states in his "Motion In Response To Report and Recommendation" [Dkt. # 28] that  
24 "he is not seeking to withdraw, nor even to amend his petition," and that "Petitioner has not  
25 intentionally conceded to any federal statute ...." [Dkt. 28 p. 2.]  
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1 The Court has reviewed the file in this case, including the referenced documents, and  
2 concludes that this cause of action must be dismissed. The Respondent has argued that  
3 Petitioner's claims are unexhausted and now procedurally barred. Petitioner has presented no  
4 argument to the contrary in his response to the Report and Recommendation, and Petitioner has  
5 had two opportunities to so respond.  
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7 The Court, having reviewed the petition, the Report and Recommendation of the Hon. J.  
8 Richard Creatura, United States Magistrate Judge, objections to the Report and  
9 Recommendation, and the remaining record, does hereby find and Order:

- 10 (1) The Court adopts the Report and Recommendation;  
11 (2) The petition for writ of habeas corpus is DISMISSED WITH PREJUDICE.  
12 (3) The Clerk is directed to send copies of this Order to petitioner and to counsel for  
13 respondent.  
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15 DATED this 31<sup>st</sup> day of July, 2009.

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19 FRANKLIN D. BURGESS  
20 UNITED STATES DISTRICT JUDGE  
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